



# **AGENDA FOR THE SPECIAL COUNCIL MEETING**

**15 NOVEMBER 2023**



**Ordinary Council Meeting Notice Paper**

**15 November 2023**

A Special Meeting of Council is called for Wednesday, 15 November 2023, in the Council Chambers, Victoria Street, Mingenev, commencing at 5.00 pm for the purpose of:

- conducting the Election for President and Deputy President;
- appointing Committee and community group representatives;
- amending fees and charges for liquid waste disposal; and
- consider tenders for RFT1 2023-24 Mingenev Early Childhood Education Centre

Prior to the meeting, recently elected members will make the declaration, in accordance with s.2.29 of the *Local Government Act 1995*.

Members of the public are most welcome to attend but any questions posed during Public Question Time must relate to a purpose of the meeting.

Matt Fanning  
Chief Executive Officer  
10 November 2023

**DISCLAIMER**

The purpose of Council Meetings is to discuss, and where possible, make resolutions about items appearing on the agenda. Whilst Council has the power to resolve such items and may in fact, appear to have done so at the meeting, no person should rely on or act on the basis of such decision or on any advice or information provided by a Member or Officer, or on the content of any discussion occurring, during the course of the meeting.

Persons should be aware that the provisions of the Local Government Act 1995 (Section 5.25 (e)) establish procedures for revocation or rescission of a Council decision). No person should rely on the decisions made by Council until formal advice of the Council decision is received by that person. The Shire of Mingenev expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any resolution of Council, or any advice or information provided by a Member or Officer, or the content of any discussion occurring, during the course of the Council meeting.

## PROCEDURE FOR PUBLIC QUESTION TIME, DEPUTATIONS, PRESENTATIONS AND PETITIONS AT COUNCIL MEETINGS

Council thanks you for your participation in Council Meetings and trusts that your input will be beneficial to all parties. Council has a high regard for community input where possible, in its decision making processes.

<b>Petitions</b> A formal process where members of the community present a written request to the Council.	<b>Deputations</b> A formal process where members of the community request permission to address Council or Committee on an issue.	<b>Presentations</b> An occasion where awards/gifts may be accepted by the Council on behalf of the community, when the Council makes a presentation to a worthy recipient or when agencies may present a proposal that will impact on the Local Government
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### PROCEDURE FOR DEPUTATIONS

The Council allows for members of the public to make a deputation to Council on an issue related to Local Government business. Any person or group wishing to be received as a deputation by the Council shall send to the CEO an application:

- I. Setting out the agenda item to which the deputation relates;
- II. Whether the deputation is supporting or opposing the officer's or Committee's recommendation; and
- III. Include sufficient detail to enable a general understanding of the purpose of the deputation.

Notice of deputations need to be received by 5pm on the day before the meeting and agreed to by the Presiding Member. Please contact the Shire via telephone on 99281192 or email [governance@mingenew.wa.gov.au](mailto:governance@mingenew.wa.gov.au) to arrange your deputation.

Where a deputation has been agreed to, during the meeting the Presiding Member will call upon the relevant person(s) to come forward and address Council.

A Deputation invited to attend a Council meeting:

- I. is not to exceed five (5) persons, only two (2) of whom may address the Council, although others may respond to specific questions from Members;
- II. is not to address the Council for a period exceeding ten (10) minutes without the agreement of the Council; and
- III. additional members of the deputation may be allowed to speak with the agreement of the Presiding Member.

Council is unlikely to take any action on the matter discussed during the deputation without first considering an officer's report on that subject in a later Council agenda.

### PROCEDURE FOR PRESENTATION

Notice of presentations being accepted by Council on behalf of the community, or agencies presenting a proposal, need to be received by 5pm on the day before the meeting and agreed to by the Presiding Member. Please contact the Shire via telephone on 99281102 or email [governance@mingenew.wa.gov.au](mailto:governance@mingenew.wa.gov.au) to arrange your presentation.

Where the Council is making a presentation to a worthy recipient, the recipient will be advised in advance and asked to attend the Council meeting to receive the award.

All presentations will be received / awarded by the Shire President or an appropriate Councillor.

### PROCEDURE FOR PETITIONS

## MINGENEW SHIRE COUNCIL SPECIAL MEETING AGENDA – 15 November 2023

Please note the following protocol for submissions of petitions. Petitions must:

- be addressed to the Shire President.
- be made by electors of the district.
- state the request on each page of the petition.
- contain the names, addresses and signatures of the elector(s) making the request, and the date each elector signed.
- contain a summary of the reasons for the request.
- state the name and address of the person whom arranged the petition for correspondence to be delivered to, as correspondence is not sent to all the signatures on the petition.

Where a petition does not relate to or conform to the above it may be treated as an 'informal' petition and the Chief Executive Officer may at his discretion forward the petition to Council accompanied by an officer report.

### PROCEDURE FOR PUBLIC QUESTION TIME

The Council extends a warm welcome to you in attending any meeting of the Council. Council is committed to involving the public in its decision-making processes whenever possible, and the ability to ask questions during 'Public Question Time' is of critical importance in pursuing this public participation objective.

Council (as required by the Local Government Act 1995) sets aside a period of 'Public Question Time' to enable a member of the public to put up to two (2) questions to Council. Questions should only relate to the business of Council and should not be a statement or personal opinion. Upon receipt of a question from a member of the public, the Shire President may either answer the question or direct it to a Councillor or an Officer to answer, or it will be taken on notice.

Having regard for the requirements and principles of Council, the following procedures will be applied in accordance with the Shire of Mingenew Standing Orders Local Law 2017:

1. Public Questions Time will be limited to fifteen (15) minutes.
2. Public Question Time will be conducted at an Ordinary Meeting of Council immediately following "Responses to Previous Public Questions Taken on Notice".
3. Each member of the public asking a question will be limited to two (2) minutes to ask their question(s).
4. Questions will be limited to two (2) per person.
5. Please state your name and address, and then ask your question.
6. Questions should be submitted to the Chief Executive Officer in writing by 5pm on the day before the meeting and be signed by the author. This allows for an informed response to be given at the meeting.
7. Questions that have not been submitted in writing by 5pm on the day before the meeting will be responded to if they are straightforward.
8. If any question requires further research prior to an answer being given, the Presiding Member will indicate that the "question will be taken on notice" and a response will be forwarded to the member of the public following the necessary research being undertaken.
9. Where a member of the public provided written questions then the Presiding Member may elect for the questions to be responded to as normal business correspondence.
10. A summary of the question and the answer will be recorded in the minutes of the Council meeting at which the question was asked.

- During the meeting, no member of the public may interrupt the meetings proceedings or enter into conversation.
- Members of the public shall ensure that their mobile telephone and/or audible pager is not switched on or used during any meeting of the Council.
- Members of the public are hereby advised that use of any electronic, visual or audio recording device or instrument to record proceedings of the Council is not permitted without the permission of the Presiding Member.

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**AGENDA FOR THE SPECIAL MEETING OF COUNCIL TO BE HELD IN COUNCIL CHAMBERS ON  
15 NOVEMBER 2023 COMMENCING AT 5.00PM**

**1.0 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS**

**2.0 RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE**

*Prior to the Election commencing, Councillors-elect Cr GJ Cosgrove, Cr HM McTaggart, Cr JD Bagley and Cr RA Starick to make the declaration in accordance with s.2.29 of the Local Government Act 1995.*

**3.0 ELECTION OF SHIRE PRESIDENT**

Nominations are to be lodged in writing to the CEO, indicating consent of the nominee, prior to, or submitted at the meeting prior to the Election being held. A nomination form will be issued with this Agenda.

**4.0 ELECTION OF THE DEPUTY SHIRE PRESIDENT**

Nominations are to be lodged in writing, indicating consent of the nominee, prior to, or submitted at the meeting prior to the Election being held. A nomination form will be issued with this Agenda.

**5.0 COUNCILLOR SEATING ALLOCATION**

The Councillor seating allocation will be in accordance with Clause 7.2 of the Shire of Mingenew Standing Orders Local Law 2017 which states "When present in the meeting room, a member will occupy the seating position allocated to him or her for each specific Council or Committee meeting." In order to determine the seating arrangements for Council meetings, seating positions will be allotted by random draw, conducted by the CEO. The following seating positions are fixed:

- 6. President
- 7. Chief Executive Officer
- 8. Governance & Community Manager
- 4. Manager Corporate Services
- 12. Manager Works

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**6.0 PUBLIC QUESTION TIME/PUBLIC STATEMENT TIME**

**7.0 APPLICATIONS FOR LEAVE OF ABSENCE**

**8.0 DECLARATIONS OF INTEREST**

## 9.0 GOVERNANCE & COMMUNITY MANAGER

### 9.1 APPOINTMENT OF COMMITTEE DELEGATES

Location/Address: Shire of Mingenew  
Name of Applicant: Shire of Mingenew  
File Reference: GV.CMT.5  
Disclosure of Interest: Nil  
Date: 19 September 2023  
Author: Erin Greaves, Governance & Community Manager  
Authorising Officer: Matt Fanning, Chief Executive Officer  
Voting Requirements: Absolute Majority / Simple Majority

#### Summary

Council is asked to nominate and appoint members to Council's Committees and the various organisations that have Council representation.

#### Key Points

- The Shire President and Chief Executive Officer reserve the right to attend any meeting
- The Shire of Mingenew Executive Management Committee is the only Committee of Council with delegated authority.
- The Audit & Risk Committee has statutory functions under the Local Government Act 1995
- The list of Committees and groups within the recommendation are based on previous appointments made by Council. It is up to Council to consider if the same level of Council representation is relevant and whether a reduction or increase to appointments are necessary

#### OFFICER RECOMMENDATION – ITEM 9.1

Council:

1. By Absolute Majority, appoints the following members to the Shire of Mingenew's Committees of Council:

#### SHIRE OF MINGENEW AUDIT & RISK COMMITTEE

Cr \_\_\_\_\_, Cr \_\_\_\_\_ and Cr \_\_\_\_\_,  
Cr \_\_\_\_\_ and Ms Jane Bagshaw, as the Independent Member.

#### SHIRE OF MINGENEW BEHAVIOUR COMPLAINTS COMMITTEE

Cr \_\_\_\_\_, Cr \_\_\_\_\_ and Cr \_\_\_\_\_, and  
Cr \_\_\_\_\_, Cr \_\_\_\_\_ and Cr \_\_\_\_\_, as proxy  
delegates.

#### SHIRE OF MINGENEW BUSH FIRE ADVISORY COMMITTEE

Cr \_\_\_\_\_, and Cr \_\_\_\_\_ as proxy delegate.

**SHIRE OF MINGENEW EXECUTIVE MANAGEMENT COMMITTEE**

Cr \_\_\_\_\_, Cr \_\_\_\_\_ and Cr \_\_\_\_\_, and Cr \_\_\_\_\_ as proxy delegate.

**SHIRE OF MINGENEW LOCAL EMERGENCY MANAGEMENT COMMITTEE**

Cr \_\_\_\_\_, the Chief Executive Officer (or his/her nominee), and Cr \_\_\_\_\_ as proxy delegate.

**SHIRE OF MINGENEW COMMUNITY ASSISTANCE SCHEME PANEL**

Cr \_\_\_\_\_, Cr \_\_\_\_\_, the Community Development Officer, and Governance and Community Manager.

**SHIRE OF MINGENEW CBH EXPANSION PROJECT WORKING GROUP**

Cr \_\_\_\_\_, Cr \_\_\_\_\_, the Chief Executive Officer and Cr \_\_\_\_\_ as proxy delegate.

2. Delegates the following members to represent Council on community-run committees:

**MINGENEW COMMUNITY RESOURCE CENTRE MANAGEMENT COMMITTEE**

Cr \_\_\_\_\_ and the Community Development Officer, and Cr \_\_\_\_\_ as proxy delegate.

3. Delegates the following members to represent the Shire of Mingenew on external committees and groups:

**JOINT DEVELOPMENT ASSESSMENT PANEL**

Cr \_\_\_\_\_ and Cr \_\_\_\_\_, and Cr \_\_\_\_\_ and Cr \_\_\_\_\_ as proxy delegates.

**MID-WEST REGIONAL ROAD GROUP**

Cr \_\_\_\_\_, and Cr \_\_\_\_\_ as proxy delegates.

**NORTHERN COUNTRY ZONE OF WALGA**

Cr \_\_\_\_\_ and Cr \_\_\_\_\_, and Cr \_\_\_\_\_ as proxy delegate.

**WILDFLOWER COUNTRY INC.**

Cr \_\_\_\_\_ and Cr \_\_\_\_\_ as proxy voting delegate, and the Community Development Officer and Chief Executive Officer as non-voting delegates.

**Attachments**

- 9.1.1 Audit & Risk Committee Terms of Reference
- 9.1.2 Bushfire Advisory Committee Terms of Reference
- 9.1.3 Local Emergency Management Committee Terms of Reference
- 9.1.4 Behaviour Complaints Committee Terms of Reference
- 9.1.5 Terms of Reference for Elected Member Representation on External Committees / Groups



### **Background**

Following the 2023 ordinary local government election process, it is appropriate to reconsider Council representative positions for Council Committees and other representation appointments.

Section 5.8 of the Local Government Act 1995 enables Councils to form committees to assist it with its functions. Committee members can include elected members, employees and members of the public in a variety of combinations. Committees can operate with council delegated decision making powers or solely on an advisory basis. Advisory committees where members are drawn from both council and the community give the community a significant opportunity to provide input into the council's decision making meeting process and is the current format for all of Council's Committees currently.

Where a Committee has a delegated authority, it is important to note that the same responsibilities apply to Committee meetings as council meetings, including making them available to the public, publishing agendas and minutes and giving public notice of meeting dates, times etc.

### **Comment**

A summary of the purpose of each Committee and any additional information that may be pertinent is provided below:

#### **Audit & Risk Committee (ARC)**

The primary objective of the Audit and Risk Committee "the Committee" is to accept responsibility for the annual external audit and liaise with the local government's auditor so that Council can be satisfied with the performance of the local government in managing its statutory and fiscal affairs.

Reports from the Committee will assist Council in discharging its legislative responsibilities of controlling the local government's affairs, determining the local government's policies and overseeing the allocation of the local government's finances and resources. The Committee will ensure transparency in the Local Government's reporting and will liaise with the CEO to ensure the effective and efficient management of the local government's systems and processes.

The Terms of Reference require that the Committee will consist of at least four members, including an independent member although it has been Council's past practice to have four Elected Members on the Committee plus an independent member.

The Audit & Risk Committee typically meet four times per year. The most recently appointed Elected Member representatives include Cr McTaggart, Cr Cosgrove, Cr Smyth and Cr Pearse, and Jane Bagshaw as the independent member.

#### **Behaviour Complaints Committee (BCC)**

The Behaviour Complaints Committee is a Committee of Council established in accordance with s.5.8 of the Local Government Act 1995 (the Act) for the purpose of dealing with Behaviour Complaints made under Division 3 of the Shire of Mingenew's Code of Conduct for Council Members, Committee Members and Candidates (Code of Conduct).

The Terms of Reference for this Committee require at least three Council Members to be appointed and at least 3 proxy members. This ensures flexibility in Council Member attendance should the Committee be required to meet, as it will depend on who the complaint refers.

Meetings are only held as required (following the receipt of a complaint and upon completion of an investigation after which a report is prepared by the Behaviour Complaints Officer, in accordance with Council Policy 1.1.8).

Members include Cr Bagley, Cr Smyth and Cr Farr (former), with Cr Holmes, Cr McTaggart and Cr Cosgrove as proxies.

### **Executive Management Committee (EMC)**

The Executive Management Committee is purposed with coordinating and undertaking the CEO Performance Review each year (and recruitment and termination of a CEO, as required). This Committee has delegated powers in accordance with s5.16 and s5.38 of the *Local Government Act* and R18D of the *Local Government (Administration) Regulations 1996* to "Review the performance of the Chief Executive Officer at least once in relation to every year of employment.". This authority is conditional on the following:

1. Authority is subject to the Local Government Act 1995 and its associated Regulations.
2. The review and report are to be presented to Council for acceptance [of the review], with or without modification, or to reject the review.

Council have authorised the Committee, in consultation with the CEO, to:

- Set the date of the Performance Review; and
- Determine if an external facilitator is to be engaged to assist with future performance reviews and be involved in the selection of that third party.

The EMC meets at least twice a year to undertake the CEO Performance Review and then as required to deal with the recruitment and termination of the CEO.

Cr Cosgrove, Cr McTaggart and Cr Bagley are the most recently appointed delegates, with Cr Smyth as proxy.

### **Local Emergency Management Committee (LEMC)**

The LEMC has been established in accordance with s38(1) of the *Emergency Management Act 2005* for the purpose of making the Shire of Mingenew a safe community by managing the risk of emergencies through the delivery and implementation of emergency prevention, preparedness, response and recovery strategies.

The Terms of Reference set out the specific objectives of the Committee and other management details. At least four meetings are held per year.

Voting membership is outlined in the Terms of Reference (agency representatives) and consists of Cr Smyth as the Councillor representative and the CEO, with Cr Farr (former) as proxy.

### **Community Assistance Panel (CAP)**

The Community Assistance Panel is responsible for reviewing applications received under the Community Assistance Scheme. The most recent appointees are Cr McTaggart, Cr Holmes and the Shire's Community Development Officer.

### **CBH Expansion Project Working Group**

This is a new group, included to enable Council to review and keep informed of any plans and information relevant to the future expansion of the Mingenew CBH facility to ensure that community impacts and priorities are considered and communicated.

This is not a formal Council Committee, but a working group which will report back to Council as required. Cr Bagley, Cr Cosgrove and the CEO are nominated representatives, with Cr Smyth as proxy.

### **Mingenew Community Resource Centre Management Committee (CRCMC)**

The Mingenew Community Resource Centre (CRC) Management Committee oversees the management of the Mingenew CRC and is not a Committee of Council.

Council have previously provided formal representation on this Committee to coordinate any projects and initiatives that require Council support or involvement.

Council representatives do not have voting power but can report back to the local government on any matters of interest or matters that are likely to require Council consideration. Council representatives may also update the Committee members on any matters that may impact them or require feedback on. Cr McTaggart and the Shire's Community Development Officer are the nominated representatives, with Cr Farr (former) the proxy.

### **Joint Development Assessment Panel (JDAP)**

A Joint Development Assessment Panel (JDAP) is made up of specialist and local government members and are established to determine development applications that meet set type and value thresholds as if it were the responsible authority under the relevant planning instrument, such as the local planning scheme or region planning scheme. The DAP regulations state that DAP applications cannot be determined by local government or the Western Australian Planning Commission (WAPC).

There are currently 8 JDAPs in Western Australia, with the Shire of Mingenew being members of the Mid-west/Wheatbelt region. Local members are members of a local government council who are nominated by that local government to sit on a DAP. Local governments are required to nominate two councillors as local members, and two deputy local members to be called on if an issue of quorum arises. The Minister will appoint the local government representatives in accordance with the local government's nomination.

Should the local government fail to nominate four representatives, the Minister has the power to appoint two alternative community representatives to ensure local representation is always present on a panel. The regulations require that these alternate representatives are residents of the local area and have relevant knowledge or experience that, in the opinion of the Minister, will enable them to represent the interests of their local community.

An information booklet has been provided as an attachment should Councillors and members of the community wish to learn more about Development Assessment panels and their role.

The structure of Development Assessment Panels are currently under review by the State Government and changes are foreshadowed but for the time being it is appropriate to follow the current established process.

Cr Cosgrove and Cr Bagley are the nominated local members, with Cr Holmes and Cr Farr (former) the Deputy members.

### **Mid-West Regional Road Group**

There are 10 Regional Road Groups (RRG) in WA, established under the State Road Funds to Local Government Agreement which is overseen by a State Advisory Committee (SAC). The RRGs make recommendations to SAC in relation to the Annual Local Government Roads Program for their Region and any other relevant issues.

The RRGs are comprised of elected representatives from each Local Government within the road group. Most groups are supported by a technical committee comprised of Local Government staff. Administrative support is provided by Main Roads WA. RRGs are important in providing Local Government with a voice in how the State Government's contribution to local roads is spent. Regional Road Group members serve a vital and valuable role in ensuring that road funding decisions maximise community benefits and preserve and improve the road system across Western Australia. The RRG is also responsible for reviewing the Restricted Access Vehicle (RAV) network.

## MINGENEW SHIRE COUNCIL SPECIAL MEETING AGENDA – 15 November 2023

Most decisions of this Committee are made by consensus and only one Council representative has voting rights. Council representatives are expected to keep Council informed of the business and decisions made by the Regional Road Group.

Cr Cosgrove and Cr Bagley are nominated members, and Cr Smyth is the proxy.

### **Northern Country Zone of WALGA**

State Councillors are elected to State Council from one of 17 Zones, which are groupings of Local Governments convened together on the basis of population, commonalities of interest and geographical alignment. Zones have an integral role in shaping the political and strategic direction of WALGA. Not only are Zones responsible for bringing relevant local and regional issues to the State decision making table, they are a key player in developing policy and legislative initiatives for Local Government.

Zone delegates are elected or appointed to represent their Council on the Zone and make decisions on their Council's behalf at the regional level. In fulfilling their role as Council's delegate, the Zone delegate should give regard to their Council's positions on policy issues. There is also an expectation that Zone delegates will report back to their Council about decisions made by the Zone.

WALGA have requested that they be notified of Elected Member delegates and deputy delegates to the Zone no later than Friday 5 November 2021. This will enable the Zone to elect WALGA State Council representatives. The Northern Country Zone (NCZ) will appoint its office bearers (President, Deputy President and State Council representative and Deputy) at the next NCZ meeting on 22 November 2021.

Please [click here](#) to view WALGA's Elected Member Prospectus. This document will assist in providing further information on becoming a Zone Delegate or State Councillor.

Cr Cosgrove and Cr McTaggart are the most recently nominated representatives, and Cr Holmes is proxy.

### **Wildflower Country Inc.**

Western Australia's Wildflower Country has been the collective group of nine local government areas located just north of Perth in Western Australia; Carnamah, Coorow, Dalwallinu, Greater Geraldton – including Mullewa, Moora, Morawa, Mingenew, Perenjori and Three Springs. The future of this group is unknown, regardless a current nominee is necessary to finalise any outcomes under the current structure.

The "current" purpose of Wildflower Country Incorporated is to promote this beautiful region as a unique and captivating tourism destination, for the collective mutual benefit of the entire Wildflower Country region. Wildflower Country assists with collaborative destination marketing, and in producing memorable and positive visitor experiences, as well as assisting to develop the tourism industry within the area.

Each local government is entitled to one voting representative, which is Cr Farr, with the CEO and Community development Officer also appoint to attend as non-voting representatives. It is recommended that a proxy Council delegate be nominated.

### **Statutory Environment**

Local Government Act 1995

Local Government (Administration) Regulations 1996

Emergency Management Act 2005

### **Policy Implications**

As indicated within the report above, where applicable.

**Financial Implications**

Nil

**Strategic Implications**

Strategic Community Plan:

Strategy 1.3.1 Provide a high level of compliance with external regulation, in a resource-efficient manner

Strategy 1.3.2 Provide services and processes to enhance public safety

## 10.0 MANAGER CORPORATE SERVICES

### 10.1 FEES AND CHARGES AMENDMENT – DISPOSAL OF LIQUID WASTE

Location/Address: Shire of Mingenew  
Name of Applicant: Shire of Mingenew  
File Reference: FM.RVN.1  
Disclosure of Interest: Nil  
Date: 26 October 2023  
Author: Helen Sternick, Manager Corporate Services  
Approved by: Matt Fanning, Chief Executive Officer  
Voting Requirement: Absolute Majority

#### Summary

Seeking Councils' approval to amend the 2023/24 Fees and Charges to change the disposal of liquid waste charge.

#### OFFICER RECOMMENDATION – ITEM 10.1

That Council, by simple majority:

1. not accept septage liquid waste generated outside the Shire of Mingenew local government area; and;
2. not accept septage liquid waste generated by or associated with the mining and resource sector.

That Council, by absolute majority:

1. approves the revised Fees and Charges for the 2023/24 financial year for the disposal of liquid waste being:

Residential septic tank only	Per 2,000 litres or less	\$110 (including GST)
Townsite commercial	Per 1,000 litres	\$110 (including GST)

2. Gives local public notice of the imposition of the updated and new fees and charges applicable from 21 December 2023.

#### Background

In accordance with the *Local Government Act 1995*, Local Governments may impose and recover a fee or charge for any goods or services it provides. These fees and charges are to be set when adopting the annual budget but may be amended from time to time during the financial year.

The current licence applicable to the Shire of Mingenew allows the waste facility to receive up to 57,000 litres of septage liquid waste per year.

The current fees and charges for septage liquid waste of \$100 per load was initially established to recover the costs of septage waste disposal for Shire of Mingenew households. Council's staff have received enquiries from commercial businesses to use the facilities, when the fees and charges were not set with this in mind.

#### Comment

Due to the City of Greater Geraldton ceasing to accept septage liquid waste that is generated by the mining and resource sector and increasing fees and charges for septage liquid waste generated outside the city's local government area as of 26 September 2023, enquiries have been received to access the Shire of Mingenew facility. Our current facility does not have the capacity to handle septage liquid waste generated outside the Shire of Mingenew local government.

#### Statutory Environment

*Local Government Act 1995 Section 6.16*

**6.16 Imposition of fees and charges**

- (1) *A local government may impose\* and recover a fee or charge for any goods or service it provides or proposes to provide, other than a service for which a service charge is imposed.*

*\* Absolute majority required.*

- (2) *A fee or charge may be imposed for the following —*
- (a) providing the use of, or allowing admission to, any property or facility wholly or partly owned, controlled, managed or maintained by the local government;*
  - (b) supplying a service or carrying out work at the request of a person;*
  - (c) subject to section 5.94, providing information from local government records;*
  - (d) receiving an application for approval, granting an approval, making an inspection and issuing a licence, permit, authorisation or certificate;*
  - (e) supplying goods;*
  - (f) such other service as may be prescribed.*
- (3) *Fees and charges are to be imposed when adopting the annual budget but may be —*
- (a) imposed\* during a financial year; and*
  - (b) amended\* from time to time during a financial year.*

*\* Absolute majority required.*

**6.19. Local government to give notice of fees and charges**

*If a local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted it must, before introducing the fees or charges, give local public notice of —*

- (a) its intention to do so; and*
- (b) the date from which it is proposed the fees or charges will be imposed.*

**Policy Implications**

Nil

**Financial Implications**

If approved, the amended fees and charges will generate additional income and define the users of the facility.

**Strategic Implications**

Strategic Community Plan 2019-2029

1.2.1 Manage organisation in a financially sustainable manner

1.3.1 Provide a high level of compliance with external regulation, in a resource-efficient manner

**11.0 LATE ITEM**

**11.1 RFT 01 2023-24 – Mingenew Early Childhood Education Facility – Design and Construct**

Location/Address: Shire of Mingenew  
Name of Applicant: Shire of Mingenew  
Disclosure of Interest: Nil  
File Reference: FM.TEN.23.24  
Date: 13 November 2023  
Author: Matt Fanning, CEO  
Voting Requirement: Simple Majority

**Summary**

Shire of Mingenew invited tenders from suitably qualified tenderers for the Design and Construction of a 24 place Early Childhood Education Facility. Offers of a modular or built on-site form we accepted. Only one response was received which excluded landscaping and exceeded the project budget. Council is requested to not accept any tenders and progress a tender exempt process.

**Key Points**

- RFT issued with only one responses
- Contractors offer is significantly higher than the current approved budget.

**OFFICER RECOMMENDATION – ITEM 11.1**

**Council:**

1. Notes the evaluation matrix, as included in Confidential Attachment 11.1.1,
2. In accordance with the *Local Government (Functions and General) Regulation 1996*, Regulation 18, resolves to not accept any tenders for RFT01 2023-24 Mingenew Early Childhood Education Facility – Design and Construct, as the only tender received in excess of the project budget.
3. Instructs the CEO to obtain alternate offers under a tender exempt process for the delivery of the Mingenew Early Childhood Education Facility, as per Regulation 11 of the *Local Government (Functions and General) Regulation 1996*.

**Confidentiality**

An attachment to this report is confidential in accordance with section 5.23 (2) of the *Local Government Act 1995* because it deals with –

- (c) “a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.”
- (e) “Information that has a commercial value to a person”

**Attachment**

- 11.1.1 Confidential – Evaluation Report circulated as a separate confidential attachment as per s.5.23(2)(e)(ii)(iii)

**Background**

The Shire has been developing the delivery of a new increased capacity Early Childhood Education Facility.

Tenders were advertised 7 October 2023 through the tenderlink portal and closed 14:30 AWST on 10 November 2023.



The tender was separated into two portions.

### Comment

The Qualitative Criteria was approved prior to the advertisement of the RFT. Each Criterion was given the following weightings and included within the RFT document.

Criteria		Weighting
(a)	Experience and Capacity	15%
(b)	Experience and Capacity of Respondent's Key Personnel, Subcontractors, Suppliers and Consultants	15%
(c)	Methodology	15%
(d)	Proposed concept design, inclusions and technical data (noting the Principal's budget is \$900,000)	55%

The submissions were assessed against the Qualitative Criteria and each Criterion was given a score in accordance with the Evaluation Guide contained within the Evaluation Spreadsheets.

A rating scale of zero-to-ten (0 - 10) was used for evaluating the Tender submissions in accordance with the Qualitative Criteria, with 0 being lowest and 10 being highest.

The evaluation and recommendation report, including the overall evaluation scores and rankings, is attached as confidential Attachment 11.1.1.

The evaluation of the submissions received against the quantitative and qualitative criteria resulted in the rankings (in order of priority) as shown below –

Ranking	Tenderer
1	Kilmore Group

### Consultation

- Internal Staff

### Statutory Environment

The *Local Government Act 1995* at S3.57(1) (tenders for providing goods or services) requires that in certain circumstances, a local government is to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.

The *Local Government (Functions and General) Regulations 1996* at Regulation 11A (when tenders have to be publicly invited) clarifies that tenders are to be publicly invited if the consideration under the contract is, or is expected to be, more, or worth more, than \$250,000.

However, after having followed the appropriate tender process and it is determined that no acceptable tenders have been received, Council may consider other procurement options, other than public tender, in accordance with Regulation 11(2)(c)(i):

#### **11. When tenders have to be publicly invited**

(2) *Tenders do not have to be publicly invited according to the requirements of this Division if —*

(c) *within the last 6 months —*

(i) *the local government has, according to the requirements of this Division, publicly invited*

*tenders for the supply of the goods or services but no tender was submitted that met the tender specifications or satisfied the value for money assessment;*

**18. Rejecting and accepting tenders**

- (4) *Tenders that have not been rejected under subregulation (1), (2), or (3) are to be assessed by the local government by means of a written evaluation of the extent to which each tender satisfies the criteria for deciding which tender to accept and it is to decide which of them (if any) it thinks it would be most advantageous to the local government to accept.*

**Policy Implications**

In obtaining a public tender, the Shire's Purchasing Policy (1.3.1) requirements have been met. Our Local Price Preference Policy was also applied in the attached tender assessment document.

**Financial Implications**

A total of \$1,000,000 was included in the FY23/24 budget for these works allowing a contingency of \$100,000, resulting in a project budget of \$900,000 to perform the design and construction of the facility.

The tender response of \$1,530,245.39, excluding the landscaping portion, equates to \$3,600 per square meter which is significant given the concept design.

**Strategic Implications**

Strategic Community Plan 2019-2029:

2.2.1 Develop childcare service to full time full day care model

MINGENEW SHIRE COUNCIL SPECIAL MEETING AGENDA – 15 November 2023

**12.0 TIME AND DATE OF NEXT MEETING**

Next Ordinary Council Meeting to be held on Wednesday 6 December 2023 commencing at 5:00pm.

**13.0 CLOSURE**

The meeting was closed at \_\_\_\_pm.

These minutes were confirmed at an Ordinary Council meeting on 6 December 2023.

Signed \_\_\_\_\_  
Presiding Officer

Date: \_\_\_\_\_